

<b>TO: Mail Stop 8</b> <b>Director of the U.S. Patent &amp; Trademark Office</b> <b>P.O. Box 1450</b> <b>Alexandria, VA 22313-1450</b>	<b>REPORT ON THE</b> <b>FILING OR DETERMINATION OF AN</b> <b>ACTION REGARDING A PATENT OR</b> <b>TRADEMARK</b>
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In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been  
 filed in the U.S. District Court Northern District of California on the following ☒ Patents or ☐ Trademarks:

DOCKET NO. <b>C- 09-1315-BZ</b>	DATE FILED <b>March 25, 2009</b>	U.S. DISTRICT COURT <b>Office of the Clerk, 450 Golden Gate Ave., 16<sup>th</sup> Floor, San Francisco, CA 94102</b>
PLAINTIFF  <b>ALEKSANDR L. YUFA</b>		DEFENDANT  <b>TSI INCORPORATED</b>
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 <b>6,346,983</b>		
2 <b>5,764,967</b>		"PLS. SEE ATTACHED COPY OF COMPLAINT"
3 <b>5,946,091</b>		
4 <b>6,034,769</b>		
5 <b>7,439,855</b>		

In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT
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CLERK  <b>Richard W. Wieking</b>	(BY) DEPUTY CLERK  <b>Thelma Nudo</b>	DATE  <b>March 25, 2009</b>
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Copy 1—Upon initiation of action, mail this copy to Commissioner    Copy 3—Upon termination of action, mail this copy to Commissioner  
 Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner    Copy 4—Case file copy

1 Yufa's '983 patent.

2 Based on the documents and evidences available at this time, it is strongly believed that  
3 the method (claims 1, 2) and apparatus (claims 3-5) claimed in the Yufa's '983 (Exhibit A)  
4 are also infringed by TSI's manufacturing (making), selling, and offering for sale of FMS  
5 and Models 3031, 3031-1 (as well as by the Adams' products acquired by TSI [Exhibit X is  
6 a true and correct copy of the print-out of the computer screen on December 16, 2008 at  
7 approximately 9:02 a.m. PST, wherein is seen the TSI's logo under <http://www.adamsinstruments.com/>]).  
8

9 18) It is believed that TSI has indirectly confirmed the believed infringement considering the  
10 following facts:

11 A. TSI (as well as the acquired Adams) has not opposed to the Claim Comparison  
12 Chart mailed to TSI as an attachment to the Yufa's infringement notifying letter of Decem-  
13 ber 05, 2008 [Exhibit Q].

14 B. TSI (as well as the acquired Adams) has not declared a non-infringement after  
15 Yufa's notification of the infringement. It is believed, that TSI has made the contra-  
16 dicted/opposite statement(s), i.e. in the TSI's letter of January 26, 2009 to Yufa [Exhibit S]  
17 to Yufa, TSI states "... we do not believe that the cited products come into conflict with any  
18 of the cited patents. ...", but:

19 a) the TSI's (as well as the Adams') Facility Monitoring Systems (FMS),  
20 as it is believed, operates in compliance with the Yufa's '983 [Exhibit J];

21 b) the Adams' "Remote Particle Counter of R-Series 0.5 $\mu$ m@28.3LPM"  
22 as well as the other analogous Adams' remote particle counters (e.g. "R-Series  
23 0.2 $\mu$ m@2.83LPM", etc.), as it is believed, operate in compliance with the Yufa's '983  
24 [Exhibits I, K];

25 c) the Adams' representative in his E-mail to Yufa, as it is believed, states  
26 (confirms) that the Adams' particle counting systems operate in compliance with the Yufa's  
27 '983 [Exhibit L], etc.

28 d) in the TSI Web-site's publication "TSI Creates the Solution for Ultra-

1 fine Particle Monitoring" (dated "March 7, 2008") [Exhibit V], TSI "... announces the  
2 release ..." and "... offers ..." the "... Model 3031 Ultrafine Particle Monitor ...", which op-  
3 rates wirelessly "... via the Internet ...";

4 e) in the TSI Web-site's publication "Ultrafine Particle Monitor" [Exhibit  
5 W] TSI discloses that the TSI's wirelessly operating "... via the Internet ..." "... bench top  
6 version ... (the Model 3031-1) is available for laboratory or mobile applications", etc.

7 TSI states that TSI does "not believe that the cited" in the Yufa's letter of December 05,  
8 2008 [Exhibit Q] TSI's "... products come into conflict with any of the cited ..." Yufa's "...  
9 patents ...", but TSI has not stated that all TSI's products (not only the TSI's products  
10 mentioned by Yufa in his letter to TSI) does not come into conflict with the Yufa's patents  
11 including '983 patent, made, as it is believed, the contradicted/opposite statements  
12 (mentioned hereinabove), and has not declared a non-infringement.;

13 C. TSI (as well as the acquired Adams) has failed to defense by non-declaring a non-  
14 infringement after Yufa's notification of the infringement.

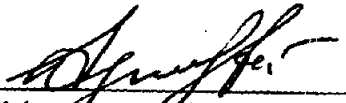
15 19) As a result, the believed Defendants's infringements (by manufacturing (making), using,  
16 selling, and offering for sale the product believed operating by the method (claims 1, 2) and  
17 structured by claims 3-5 claimed in the US Patent No. 6,346,938, as well as, by believed  
18 inducing and/or contributing infringement) have caused the Plaintiff's substantial monetary  
19 income damages (losses), and emotional distress.

20  
21 *WHEREFORE, Plaintiff prays for and demands a final injunction against continued infringe-*  
22 *ment, a judgement against Defendants for damages, caused by the continued infringement,*  
23 *in the amount specified/accounted by jury/Court, a judgement against Defendants for an*  
24 *emotional distress, caused by the infringement and misrepresentation of Plaintiff's achi-*  
25 *evements as Defendants' achievements, in the amount specified/accounted by jury/Court,*  
26 *and an assessment of interest and cost against Defendants, as well as a finding of willful*  
27 *infringement, sufficient to warrant an award of attorneys' fees.*  
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JURY TRIAL DEMANDED

March 19, 2009

  
Aleksandr L. Yufa, Ph.D.  
Plaintiff IN PRO-SE

DEMAND FOR JURY TRIAL

Aleksandr L. Yufa,  
698 Cypress Avenue,  
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IN PRO-SE

Filed

MAR 25 2009

RICHARD W. WIEKING

CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Aleksandr L. Yufa, .  
Plaintiff in Pro-Se  
v.  
TSI Incorporated  
and "Doe Defendants" 1 through 10,  
Defendants

CIVIL CASE No.  
**C09 01305**  
COMPLAINT FOR PATENT INFRINGEMENT  
(DEMAND FOR JURY TRIAL)

BZ

C/BZ

1

## **COMPLAINT**

1  
2 1) The First Listed Defendant - "TSI Incorporated" (hereinafter may be mentioned as "TSI"  
3 or "Defendant") has a Principal Place of Business located at 500 Cardigan Road,  
4 Shoreview, Minnesota 55126 [phone: (651) 490-2811, fax: (651) 490-3824].

5 TSI has acquired "Adams Instruments" (as to the best Plaintiff's knowledge and belief,  
6 the acquisition took place in October-November, 2008). "Adams Instruments" (hereinafter  
7 may be mentioned as "Adams") had a Principal Place of Business (headquarter) located at  
8 50 Staniford Street, Boston, Massachusetts (MA) 02114 [phone: (781) 806-5322, fax:  
9 (781) 784-1804], and had conducted business ("Adams Instruments - Technology Center")  
10 at 2528 Qume Drive No. 15, San Jose, California (CA) 95131 [phone: (408) 512-4909, fax:  
11 (408) 437-8735], as to the best Plaintiff's knowledge and belief.

12 Plaintiff - Aleksandr L. Yufa, Ph.D. (hereinafter may be mentioned as "Yufa") is a citizen  
13 of city of Colton at 698 Cypress Avenue, San Bernardino County, California (92324-1952),  
14 (909-370-4454-phone/voice message, 909-370-1714-fax).

15 This law suit is filed under U.S. Civil Statute of Chapters 28 and 29 of title 35 United  
16 States Code for infringement of U.S. Patent No. 6,346, 983.

17 This Court has a jurisdiction over this patent infringement law suit.

18 The U.S. Patent No. 6,346,983 is under reexamination at the United States Patent and  
19 Trademark Office (hereinafter may be mentioned as "USPTO" or "PTO").

20 2) Plaintiff has all rights to enforce the U.S. Patent No. 6,346,983 "METHODS AND  
21 WIRELESS COMMUNICATING PARTICLE COUNTING AND MEASURING APPA-  
22 RATUS" [Exhibit A] (hereinafter may be mentioned as " '983" or "Yufa's '983 patent", or  
23 "Yufa's patent", or "Patent-In-Suit") against the believed infringement, and Plaintiff has an  
24 entire interest in the said patent.

25 3) Based on the below presented information, communications, documents, and evidences,  
26 it is believed that TSI has infringed and does continuously infringe the claims 1-5 of the  
27 Yufa's '983 patent. {P.S. The possible infringement of the other claims of '983 patent may  
28 be subsequently discovered later after TSI's voluntary disclosure, initial disclosure, formal

1 Discovery, and/or at the jury trial. The possible infringement of the other Yufa's patents inc-  
2 luding but not limited to U.S. Patents Nos.: 5,769,967; 5,946,091; 6,034,769; 7,439,855,  
3 and pending patent(s) (U.S. Patent Application(s)) may be subsequently discovered later  
4 after TSI's voluntary disclosure, initial disclosure, formal Discovery, and/or at the jury  
5 trial}.

6 4) Yufa sent to Adams the letters: on September 25, 2007 (Certified Mail # 7007 0710 0001  
7 9444 0783) [Exhibit B - a true and correct copy of the original document /letter/. P.S.  
8 Hereinafter all Exhibits of the mail correspondence (letters), fax communication(s), and all  
9 E-mail correspondence are the true and correct copies of the original documents and/or  
10 computer's print-outs]], on November 16, 2007 (Certified Mail # 7006 2760 0004 3379  
11 9542) [Exhibit C], on December 07, 2007 (Certified Mail # 7006 2760 0004 3377 8905)  
12 [Exhibit D], and on February 26, 2008 (Certified Mail # 7006 0100 0005 7954 7724)  
13 [Exhibit E], notifying Adams about the believed infringement with the offer to license or  
14 acquire the Yufa's patent.

15 There were no any response to each and all of those Yufa's letters to Adams.

16 Based on the documents and evidences, it is strongly believed that the method (claims 1,  
17 and 2) and apparatus (claims 3-5) claimed in the Yufa's '983 (Exhibit A) are infringed by  
18 TSI (and as well as by the acquired Adams) by manufacturing (making), selling, and offering  
19 for sale of at least the following product, including but not limited to: "R-Series" remote  
20 models, including but not limited to: R-Series: 0.2 $\mu$ m@2.83LPM, 0.3 $\mu$ m@2.83LPM,  
21 0.5 $\mu$ m@2.83LPM, 0.5 $\mu$ m@28.3LPM, etc., believed operating and constructed (as to  
22 Yufa's best knowledge) in compliance with the claims 1-5 of the Yufa's '983 patent. As the  
23 examples, a few of the TSI's (Adams') particle counters are presented herein in the Exhibits  
24 F-I. {P.S. The Exhibits F-I are the true and correct copies of the Internet print-outs of the  
25 Adams' Web-pages.}. The mentioned above product, believed infringing the '983 patent, is  
26 not limited to the named systems, and include without limitation the other TSI's system(s),  
27 unknown to the Plaintiff at this time but which may be subsequently discovered later after  
28 TSI's voluntary disclosure, initial disclosure, formal Discovery, and/or at the jury trial.

1 The unknown at this time to Plaintiff other TSI's product operating and structured by the  
2 Patent-In-Suit may be discovered after TSI's voluntary disclosure, initial disclosure, formal  
3 Discovery, and/or at the jury trial. {The word "product" has a wider meaning, including but  
4 not limited to: system(s), apparatus, means, device(s), station(s), unit(s), block(s), particle  
5 monitoring apparatus, etc., and vice versa meaning appropriately. The word "particle" has a  
6 wider meaning, including but not limited to: agent(s); airborne particle(s), gas particle(s),  
7 etc.; contamination(s), fluid contamination(s), liquid contamination(s), etc.; aerosol; etc.,  
8 and vice versa meaning appropriately. The word "monitoring" has a wider meaning, includ-  
9 ing but not limited to: counting, measuring, analyzing, detecting, sensing, etc., and vice  
10 versa meaning appropriately. The words, e.g. "particle", "product", etc., have a singular or  
11 plural and vice versa meaning appropriately}.

12 5) Under the law [*Knorr-Bremse v. Dana Corp.*, 383 F3d 1337 (Fed. Cir. 2004)], person  
13 has a duty of due care to determine whether or not person infringe any in-force patents.  
14 {P.S. The word "person" has a wider meaning, including but not limited to: individual,  
15 corporation, organization, etc., and a singular or plural and vice versa meaning appropriate-  
16 ly - Yufa's remark}.

17 6) It is believed, that the additional following below information, fact(s), material(s)/docu-  
18 ment(s), and evidence(s) support this Complaint:

19 On approximately April, 2007, Yufa discovered that Adams manufactures (makes), sells,  
20 and offers for sale the wireless communicating product (wireless communicating particle  
21 measuring and counting apparatus) believed operating by Yufa's '983 patent (the descrip-  
22 tion of some of the believed Adams' infringing products are attached herein as Exhibits F-I,  
23 and Exhibit J is a true and correct copy of Adam's "Introduction To Interfaces Used in  
24 Facility Monitoring Systems", as to the best Yufa's recollection at the Adams' Web-page  
25 {[http://www.adamsinstruments.com/pdf-download/Intro\\_to\\_Interface\\_used%20In\\_FMS.p](http://www.adamsinstruments.com/pdf-download/Intro_to_Interface_used%20In_FMS.pdf)  
26 [df](http://www.adamsinstruments.com/pdf-download/Intro_to_Interface_used%20In_FMS.pdf)}).

27 Approximately from April, 2007 to the present time, in order to save Court's time, Yufa  
28 has conducted the informal investigation (e.g., in 2007 Yufa had the telephone communica-

1 tions with the Adams' representative(s) (Yufa's telephone callings) regarding Adams' wire-  
2 less communicating particle monitoring systems.

3 From September 11, 2007, Yufa had E-mail communications with the Adams represen-  
4 tative(s) regarding Adams' wireless communicating particle monitoring systems [Exhibits K,  
5 L], and Yufa, additionally to the posted on Internet information and documents confirming  
6 the wireless communication between the remote particle detecting unit(s) and central data  
7 processing and control unit(s) [e.g., Exhibit J, pages 9-13] has received the E-mail confirma-  
8 tion of the wireless communication between the remote particle detecting unit(s) and central  
9 data processing and control unit(s) [Adams' answers (text in red ink in the E-mail communi-  
10 cation of September 13, 2008 in Exhibit L)].

11 After the E-mails from Adams confirming the wireless communication between the  
12 remote particle detecting unit(s) and central data processing and control unit(s), analysis of  
13 the available information, mentioned above facts, documents, and evidences, Yufa on Sep-  
14 tember 25, 2007 sent to Adams a letter-notification of the believed infringement with the  
15 attached '983 patent and Claim Comparison Chart (Exhibit B), and the technical and finan-  
16 cial information about Adams' product has been requested (there have not been discovered  
17 any published subjective/substantial specific technical/financial details about the Adams' pro-  
18 duct).

19 Yufa has not received the response from Adams, and the first Brief Follow-Up Letter  
20 (Certified Mail # 7006 2760 0004 3379 9542) [Exhibit C] to Adams has been mailed by  
21 Yufa on November 16, 2007.

22 Yufa has not received the response from Adams, and the second Brief Follow-Up Letter  
23 (Certified Mail # Certified Mail # 7006 0100 0005 7954 7724) [Exhibit E] to Adams has  
24 been mailed by Yufa on February 26, 2008.

25 There was no Adams' response to the Yufa's second Brief Follow-Up Letter too.

26 Adams, by not responding to the Yufa's letters, has refused to cooperate and provide  
27 the requested technical and financial information (e.g., total sale of Adams' infringing prod-  
28 uct, profit, etc.), and/or to allow the visitation of its facilities for study/inspection of the be-

1        believed infringing product.

2        Considering the Adams' refusal to provide any financial information (even the prices for  
3        some Adams' believed infringing product have been provided during the telephone conver-  
4        sations and in Adams' E-mail to Yufa, for instance, of September 13, 2007 [Exhibit L], it is  
5        difficult to calculate/estimate the believed damages (losses).

6        Additionally, the believed damages caused by the Adams' infringing product should  
7        include the "marketable desirability" and "marketable success" of the wireless communicat-  
8        ing particle monitoring apparatus in comparison with the portable, hand-held, and wire  
9        communicating particle monitoring apparatus. For instance, the consideration of the wireless  
10       particle counter's advantages:

11       a) convenience (no electrical cable tracing necessity), mobility (communication between re-  
12       mote unit(s)/sensor(s) and central station(s) by electrical cables /wires/ can be provided  
13       within the distance range of a few hundred yards, but the wireless communicating apparatus  
14       provides communication within unlimited distance);

15       b) elimination of the operator's presence (for control of the monitoring apparatus) in the  
16       environment monitoring area;

17       c) the highest degree of mobility and possibility of the placement in the difficult accessible  
18       areas, etc., cited in the Yufa's '983 patent, and

19       d) reliability (elimination of the possible damage to/destruction of the electrical cable and  
20       necessity to disconnect cable from both sides and repair it on site or necessity to disconnect  
21       the electrical cable from the both sides, delivery it to the repair station, and after repair to  
22       trace cable again), etc.

23       Also, the estimations of the believed damage should include the Plaintiff's emotional  
24       distress caused by the believed Adams' misrepresentation of the Plaintiff's achievements  
25       claimed in the Yufa's patent, as the Adams' achievements.

26       Therefore, the believed damage caused by the TSI infringing product can not be specified  
27       at this time and may be timely determined later during formal Discovery and/or defined by  
28       the Court during a jury trial.

1 7) Based on the information, fact(s), material(s)/document(s), and evidence(s) disclosed  
2 above, it is believed, that TSI has manufactured (made), sold, offered for sale and does  
3 manufacture (make), sell, and offer for sale at least the described herein product believed  
4 operating by Yufa's '983 patent.

5 Therefore, based on the information, fact(s), document(s), and evidence(s) disclosed  
6 above, it is believed, that TSI has infringed and does continuously infringe at least the  
7 Yufa's '983 patent of four Yufa's patents related to the particle detection.

8 8) It is strongly believed, that TSI (as well as the acquired Adams), including but not limited  
9 to their employee(s), is/are the subscriber(s)/recipient(s) of the "CleanRooms" magazine for  
10 a very long time. The brief description (with the patent number, inventor's name, and inven-  
11 tor's location [city, state]) of the Yufa's '983 patent has been published in "CleanRooms",  
12 "The Magazine of Contamination Control Technology", Volume 16, No. 6, June 2002  
13 (Exhibit M - a true and correct copy of the front page of "CleanRooms" magazine, and  
14 Exhibit N - a true and correct copy of the page 20 of that magazine with the Yufa's '983  
15 patent announcement/description).

16 It is believed, that TSI (as well as the acquired Adams) had a knowledge of the Yufa's  
17 '983 patent at least from June 2002. The other information, and/or documents, and/or  
18 evidences, etc., proving the believed infringement and believed willful infringement of the  
19 Yufa's '983 patent, may be presented during litigation.

20 Therefore, it is strongly believed in the TSI's (as well as the acquired Adams') willful inf-  
21 ringement of the Yufa's '983 patent. {P.S. At this time the willful infringement is legiti-  
22 mately verified at least from the first Yufa's infringement notifying letter of September 25,  
23 2007 [Exhibit B] (there have been no Adams' responses to the infringement notifying let-  
24 ters)}.

25 Also, Plaintiff believes in a possibility of conspiracy between the defendants in the case(s).

26 9) Adams has not declared a non-infringement after Yufa's notification of the infringement  
27 (there have been no Adams' responses to the infringement notifying letters).

28 10) Adams has failed to defense by non-declaring a non-infringement after Yufa's notifica-

1 tion of the infringement (there have been no Adams' responses to the infringement notifying  
2 letters).

3 11) As a result, the believed Adams' infringement (by manufacturing (making), selling, and  
4 offering for sale the product believed operating by method (claim 1) and structured by  
5 claims 3-5 claimed in the US Patent No. 6,346,938) has caused the Plaintiff's substantial  
6 monetary income damages (losses), and emotional distress.

7 12) On October 30 and November 12, 13 of 2008, Yufa had the telephone and E-mail  
8 communications with the TSI's representatives (Exhibits O, P are true and correct copies of  
9 the Yufa's E-mail communications with the TSI's representative: with Mr. Lile Cox [Exhibit  
10 O], and with Mr. Long Yang - Sr. Inside Sales Representative and Mr. Darrick Niccum -  
11 Business Manager Contamination Control [Exhibit P] respectively).

12 13) On December 05, 2008, Yufa sent a letter (Certified Mail # 7006 3450 0002 7526  
13 7790) [Exhibit Q] to TSI, notifying TSI about the believed infringement with the offer to  
14 license or acquire the Yufa's '983 patent.

15 There was no response to that Yufa's letter of December 05, 2008.

16 14) On January 12, 2009, Yufa sent a Brief-Follow-Up Letter (Certified Mail # 7007 3020  
17 0001 6431 6709) [Exhibit R], mentioning the Yufa's letter of December 05, 2008 to TSI  
18 about the believed infringement and offer to license or acquire the Yufa's patent.

19 15) On January 28, 2009, Yufa received the letter from TSI dated January 26, 2009 [Exhibit  
20 S] responding to the Yufa's letters of December 05, 2008 [Exhibit Q] and January 12, 2009  
21 [Exhibit R].

22 16) On January 28, 2009, Yufa has faxed a letter-response [Exhibit T] to TSI (this letter has  
23 been mailed (Certified Mail # 7006 2760 0004 3385 7297) to TSI on January 29, 2009).

24 There was no TSI's response to that Yufa's letter of January 28, 2009.

25 17) The other known at this time TSI's product: "Facility Monitoring Systems" (a.k.a.  
26 "FMS") [Exhibit U], and "Ultrafine Particle (UFP) Monitors": "Model 3031" and "Model  
27 3031-1" [Exhibits V, W], also confirms the believed TSI's manufacturing (making), selling,  
28 and offering for sale of the TSI's wireless communicating product believed infringing the